



# STATE OF TENNESSEE

## OPERATING PERMIT

### GENERAL STATE OPERATING PERMIT

for the

### APPLICATION OF AQUATIC SYSTEMIC HERBICIDES

#### PERMIT NO. SOPHAS000

Issued By

State of Tennessee  
Department of Environment and Conservation  
Division of Water Pollution Control  
401 Church Street  
L & C Annex, 6th Floor  
Nashville, TN 37243-1534

In accordance with the provisions of Tennessee Code Annotated Section 69-3-108 and regulations promulgated pursuant thereto:

Permit SOPHAS000 is hereby issued and made available to owners/operators and persons to allow the application of systemic or copper-based herbicides to waters of the state provided the activities are in compliance with the terms of this permit.

This permit imposes several restrictions on how and where systemic may be applied.

This permit is a state operating general permit (SOP), with a permit number of SOPHAS000. To obtain coverage under this permit, an owner/operator or person must submit a notice of intent (NOI) to the division of Water Pollution Control (division), to which the division will respond by written notice to the applicant. Activities covered under this permit will be assigned permit numbers in the sequence SOPHA0001, SOPHA0002, etc. This permit authorized the application of contact herbicides in accordance with the terms and conditions, reporting requirements, and other conditions set forth herein.

This permit is issued on: Draft 2004  
This permit is effective on: Draft 2004  
This permit expires on: Draft 2009

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Paul E. Davis, Director  
Division of Water Pollution Control

**GENERAL STATE OPERATING PERMIT FOR THE  
APPLICATION OF AQUATIC SYSTEMIC HERBICIDES**

**TABLE OF CONTENTS**

Introduction .....	iii
<b>1. Coverage Under this Permit .....</b>	<b>1</b>
1.1. Permit Area .....	1
1.2. List and Map of the Division's Environmental Assistance Centers (EACs) and Corresponding Counties.....	1
1.3. List of the Division's EACs with Addresses and Phone Numbers .....	2
1.4. Eligibility .....	2
1.5. Limitations on Coverage .....	2
1.6. Obtaining Authorization.....	3
<b>2. Notice of Intent (NOI) Requirements .....</b>	<b>4</b>
2.1. Format of the NOI.....	4
2.2. Deadlines for the NOI Submittal.....	4
2.3. Contents of the NOI .....	4
2.4. Where and How to Submit the NOI.....	5
2.5. Administrative Procedure for Obtaining Notice of Coverage (NOC).....	5
2.6. Changes Affecting Coverage under this Permit .....	6
<b>3. Terms and Conditions.....</b>	<b>6</b>
3.1. Herbicide Application Terms and Conditions.....	6
3.2. Placement of Signs.....	7
3.3. Protection of Listed, Threatened, or Endangered Species.....	8
<b>4. Reporting and Recordkeeping.....</b>	<b>8</b>
4.1. Reporting Requirements.....	8
<b>5. Termination of Coverage.....</b>	<b>9</b>
5.1. Notice of Termination Letter .....	9
<b>6. Standard Permit Conditions.....</b>	<b>9</b>
6.1. Continuation of the Expired General Permit.....	9
6.2. Signatory Requirements .....	10
6.3. Property Rights .....	11
6.4. State/Environmental Laws .....	11
<b>7. Definitions .....</b>	<b>11</b>
<b>8. ADDENDUM A – Notice of Intent (NOI).....</b>	<b>14</b>

## **Introduction --**

The following document is a Tennessee's General State Operating Permit (SOP) that authorizes owner/operators or persons to apply systemic and/or copper-based herbicides to waters of the state that are contained within federal and state managed impoundments and lakes, provided the activities are in compliance with the terms of this permit. This permit imposes several restrictions on how and where systemic and/or copper-based herbicides may be applied.

This permit is a general SOP permit, with a permit number of SOPHA000. A general permit is one designed to apply to a category of sources that involve the same or substantially similar operations, discharge the same types of wastes, and require the same or similar permit conditions and monitoring provisions. Activities covered under this permit will be assigned permit tracking numbers in the sequence SOPHA0001, SOPHA0002, etc.

Various information about the General SOP Permit for the application of systemic aquatic herbicides can be found on our web site:

<http://www.state.tn.us/environment/permits/herbicide.php>, including:

- The permit itself;
- The rationale and the notice of determination (NOD) setting forth reasons behind the conditions of the permit;
- The notice of intent (NOI) form; and
- Other information, including links to useful water management resources.

## **Obtaining coverage under this general permit --**

In order to obtain coverage under this permit, the applicant must submit a notice of intent (NOI) (see Addendum A of this permit) to the **Division of Water Pollution Control** (division). NOIs are to be submitted to the division at the following address:

<p><b>Herbicide Application NOI Processing Tennessee Division of Water Pollution Control 6th Floor L &amp; C Annex 401 Church Street Nashville, TN 37243-1534</b></p>
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For a new application of systemic herbicides a NOI shall be submitted at least 30 days before the application of systemic herbicides to the waters of the state occurs. The NOI must follow the guidelines in Part 2 (Notice of Intent (NOI) Requirements) of this general permit. After the division reviews the NOI, the permittee will be issued a notice of coverage (NOC). The NOC under this permit will be issued after the division receives a complete and accurate NOI, and shall specify the effective dates of coverage under the permit. If the division has not been able to transmit an NOC to a permittee within 30 days of receipt of the NOI, discharges are authorized under this permit if the NOI has been assigned a valid SOPHA general permit tracking number and the permittee has been informed of this tracking number as an authorization to proceed.

### **Terms, Conditions, and Requirements of this General Permit --**

An activity covered under this general permit is subject to terms, conditions and requirements, which are listed and described briefly below.

Applicability of this general permit is only to systemic herbicides and not to contact herbicides. Anyone proposing to use contact herbicides will have to apply for a SOP for application of systemic herbicide general permit. Systemic herbicides and/or copper-based herbicides shall be limited to those registered systemic herbicides approved for use in water used as domestic water supply, and the applicator must follow all label requirements for compliance with both state and federal pesticide regulations and apply the herbicide according to label directions. This requirement is to insure the systemic herbicides used are approved for use in state waters and they are applied according to label instructions.

The application of the systemic herbicides shall be by persons [licensed](#) by the [Tennessee Department of Agriculture](#) (TDA) and must meet all applicable [regulations of the Tennessee Department of Agriculture](#). This requirement is to insure the applicators of these systemic herbicides are trained in the use of systemic herbicides.

The use of systemic herbicide should be after considering alternative methods to manage the nuisance vegetation. These methods are: mechanical; harvesters or impervious construction materials below the water line or insuring the height of the water column exceeds the growing height of the plants; and biological; introduction of natural control agents such as herbivorous fish, insects, or plant pathogens, which feed or host upon nuisance vegetation.

The application of systemic herbicides is limited to an effective plant control zone that shall be within one hundred (100) feet of fixed piers, docks, boathouses, public use boat ramps, public facilities, and industrial water intakes. Boat lanes shall be limited to a single lane not to exceed fifty (50) feet in width. Under no circumstances may the area to be treated exceed ten (10) acres. The applicator must be aware of any label and/or water use restrictions in the area of proposed application of systemic herbicides. Water use restrictions include, but are not limited to: water use for domestic and/or industrial water supply, irrigation, livestock and wildlife watering, swimming or fishing. This requirement is intended to limit the areas in the waters of the state where the systemic herbicides may be applied.

The permittee will report to the division when the application is completed. No later than 30 days after the completion of the herbicide application project, the owner/applicator or person will provide to the division two copies of a report containing, at a minimum, a description of the just completed activity detailing such information as type and amount of herbicide actually applied, the extent of the area treated, the duration of the application and type and extent of aquatic vegetation treated.

### **Fees --**

The fees shall be as specified in the Rules of Tennessee Department of Environment and Conservation, Division of Water Pollution Control, Water Quality Control Board, [Chapter 1200-4-11 – Environmental Protection Fund Fees](#). The division will invoice the permittee for the annual permit fee. At the time of this general permit issuance, the following fees were in effect:

Permit Application Fee: None

Annual Permit Fee: \$ 250.00

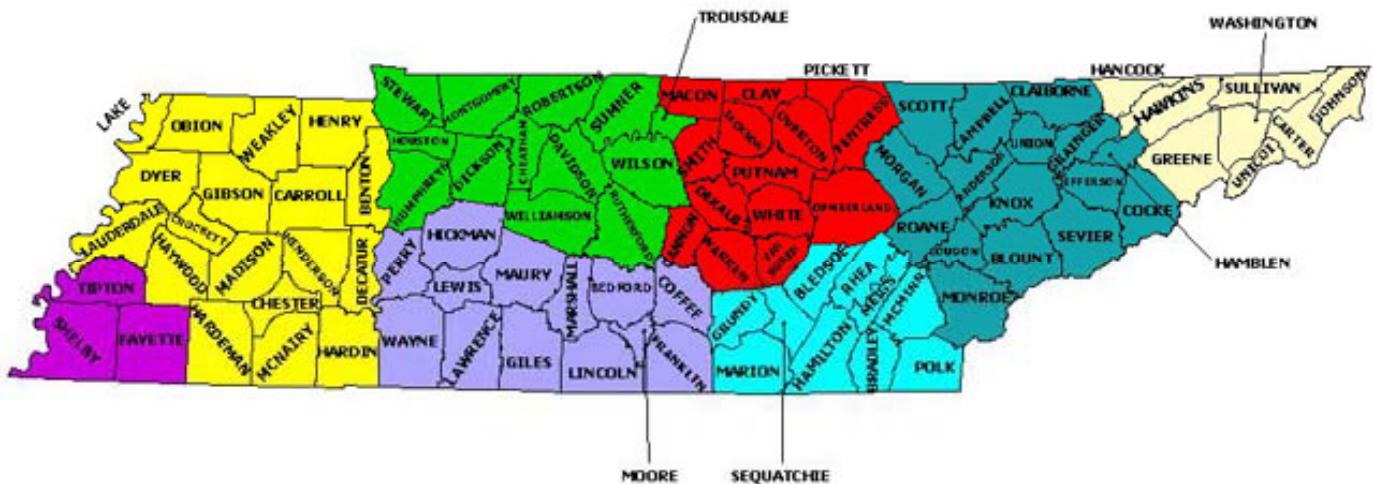
## 1. COVERAGE UNDER THIS PERMIT

### 1.1. Permit Area

This permit is applicable for waters of the State of Tennessee that are contained within federal and state managed impoundments and lakes, except those excluded in Section 1.5 below (Limitations on Coverage) of this permit.

### 1.2. List and Map of the Division's Environmental Assistance Centers (EACs) and Corresponding Counties

EAC Name	List of Counties
Chattanooga	Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea, Sequatchie
Columbia	Bedford, Coffee, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Marshall, Maury, Moore, Perry, Wayne
Cookeville	Cannon, Clay, Cumberland, De Kalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, Van Buren, Warren, White
Jackson	Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Obion, Weakley
Johnson City	Carter, Greene, Hancock, Hawkins, Johnson, Sullivan, Unicoi, Washington
Knoxville	Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Union
Memphis	Fayette, Shelby, Tipton
Nashville	Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, Wilson



1.3. List of the Division's EACs with Addresses and Phone Numbers

EAC Name	Address	City	Zip	Phone Number
Chattanooga	540 McCallie Avenue, Suite 550	Chattanooga	37402-2013	(423) 634-5745
Columbia	2484 Park Plus Drive	Columbia	38401-5300	(931) 380-3371
Cookeville	1221 South Willow Avenue	Cookeville	38506-5300	(931) 432-4015
Jackson	362 Carriage House Drive	Jackson	38305-2222	(731) 512-1300
Johnson City	2305 Silverdale Road	Johnson City	37601-2162	(423) 854-5400
Knoxville	2700 Middlebrook Pike, Suite 220	Knoxville	37921-5300	(865) 594-6035
Memphis	2510 Mt. Moriah Road, Suite E-645	Memphis	38115-1520	(901) 368-7939
Nashville	711 R.S. Gass Boulevard	Nashville	37243-1550	(615) 687-7000
Nashville Central Office	6 <sup>th</sup> Floor, L&C Annex 401 Church Street	Nashville	37243-1534	(615) 532-0625

All Environmental Assistance Centers (EACs) may be reached by telephone at the toll-free number 1-888-891-TDEC (8332).

1.4. Eligibility

1.4.1. This general permit allows use of systemic herbicides and/or copper-based herbicides to control aquatic macrophytes, if done in accordance with the terms and conditions of this permit and provided:

1.4.1.1 A completed **Notice of Intent (NOI)** for this general permit is submitted in accordance with Part 2 below (Notice of Intent (NOI) Requirements) of this permit by the owner/applicator or person who has received authorization from the division;

1.4.1.2 Application of systemic herbicides is only for the control of nuisance aquatic vegetation that is causing a limited area of water to be less supportive of its classified uses such as: fish and aquatic life, recreation, or navigation; and

1.4.1.3 An individual permit is not required.

1.5. Limitations on Coverage

1.5.1. This permit does not authorize the application of contact herbicides.

1.5.2. This permit does not authorize the application of systemic herbicides currently covered under an individual SOP or an existing ARAP permit.

- 1.5.3. This permit does not authorize the application of systemic herbicides to waters that are designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRWs) or that are identified by the [Tennessee Department of Environment and Conservation](#) (TDEC) as high quality waters. Designation of ONRWs and identification of other high quality waters are made according to TDEC Rules, [Chapter 1200-4-3-.06](#).
- 1.5.4. This permit does not authorize the application of systemic herbicides and/or copper-based herbicides or application-related activities that are likely to jeopardize the continued existence of any species that are [listed as endangered or threatened](#) under the [Endangered Species Act](#) (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. Also reference the [Fish and Wildlife Service lists](#) at <http://endangered.fws.gov/wildlife.html#Species>. Refer to Section 3.3. You are not authorized to apply systemic herbicides and or copper-based herbicides or perform application-related activities if such activities would cause a prohibited “take” of endangered or threatened species (as defined under [Section 3](#) of the [Endangered Species Act](#) and [50 CFR §17.3](#)), unless such takes are authorized under [Sections 7](#) or [10](#) of the [Endangered Species Act](#).
- 1.5.5. This permit does not authorize the application of systemic herbicides or application-related or related activities that would adversely impact cultural, historic or archaeological properties that are listed or eligible for listing in the National Register of Historic Places maintained by the Secretary of the U.S. Department of Interior.
- 1.5.6. This permit does not authorize the application of systemic herbicides or application-related activities that would cause or contribute to in-stream exceedances of water quality standards. The division may require corrective action or an application for an individual permit or an alternative general permit if the application of systemic herbicides or application-related activities has a reasonable potential to cause an in-stream exceedance of water quality standards.
- 1.5.7. This permit does not authorize the application of systemic herbicides or copper-based herbicides (or application-related activities) that introduce the same substances for which the waters are impaired. For purposes of this section, stream segments considered impaired are those segments failing to support classified uses.
- 1.5.8. This permit does not authorize the application of systemic herbicides or copper-based application-related activities that do not comply with the division’s anti-degradation policy for water quality standards, pursuant to the Rules of the [Tennessee Department of Environment and Conservation](#) (TDEC), [Chapter 1200-4-3-.06](#), titled “Tennessee Antidegradation Statement.”
- 1.6. Obtaining Authorization
- 1.6.1. To be authorized for application of aquatic systemic herbicides, you must submit a completed Notice of Intent (NOI) form (see Appendix A-1 of this permit). Details regarding [NOI](#) requirements can be found in Part 2 below (Notice of Intent (NOI) Requirements) of this permit.



1.6.2. Dischargers who submit an [NOI](#) in accordance with the requirements of this permit are allowed to use systemic herbicides and/or copper-based herbicides to control aquatic macrophytes under the terms and conditions of this permit as of the effective date of coverage given in the Notice of Coverage (NOC) transmitted to the applicant by the division. The division may deny coverage under this permit (see Section 1.5 above - Limitations on Coverage) and/or require submittal of an application for an individual NPDES permit based on a review of the [NOI](#) or other information

1.6.3. Where the applicator changes, or where a new applicator is added after submittal of an [NOI](#) under Part 2 below (Notice of Intent (NOI) Requirements), a new [NOI](#) must be submitted in accordance with Part 2 below prior to the change or addition.

## **2. NOTICE OF INTENT (NOI) REQUIREMENTS**

### **2.1. Format of the NOI**

2.1.1. You must submit the information required in Section 2.3 below (Contents of the NOI) on the [NOI](#) form (or a photocopy thereof – see Addendum A). Your [NOI](#) must be signed and dated in accordance with Section 6.2 below (Signatory Requirements) of this permit.

2.1.2. If the division notifies dischargers (either directly, by public notice, or by making information available on the Web) of other [NOI](#) form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the [NOI](#) submittal requirements of Part 2 above (Notice of Intent (NOI) Requirements).

### **2.2. Deadlines for the NOI Submittal**

2.2.1. In order to obtain coverage under this general permit, an [NOI](#) shall be submitted at least 30 days before proposed application of herbicides to the waters of the state occurs.

2.2.2. Submitting a late [NOI](#). You are not prohibited from submitting an [NOI](#) after the deadline provided above. If a late [NOI](#) is submitted, your authorization is only for discharges that occur after permit coverage is granted. The division reserves the right to take appropriate enforcement actions for any unpermitted discharges.

### **2.3. Contents of the NOI**

2.3.1. You must use the [NOI](#) form or photocopy thereof provided by the division as Addendum A to this permit. This document is also available in Microsoft Word® (\*.doc) format and Adobe® (\*.pdf) format on our [web page](#), or by e-mail upon your request. If you complete the form in the electronic version, you may add statements of explanation to the form, or attach additional pages, to make submitted information more readily understood.

2.3.2. The **NOI** must be signed in accordance with Section 6.2 below (Signatory Requirements) of this permit and must include the following information:

2.3.2.1 Name of the applicant, mailing address, e-mail address, and phone number;

2.3.2.2 Name and the license number of the applicator **licensed** by the **Tennessee Department of Agriculture** for performing the application of systemic herbicides and/or copper-based herbicides, mailing address, email address, and phone number;

2.3.2.3 A location map which identifies the county and nearest town, all water intakes within one half mile, and highlights the location (area) of the proposed herbicide application;

2.3.2.4 A description of the proposed activity detailing such information as type and amount of herbicide to be applied, extent of area to be treated, type and extent of aquatic vegetation to be treated, estimate of the duration of the application, and where appropriate, a copy of the authorization from the **United States Army Corps of Engineers** to apply the herbicides to waters under their jurisdiction; and

2.3.2.5 Any additional information the division may require.

#### 2.4. Where and How to Submit the NOI

2.4.1. You must submit an original **NOI**, signed in accordance with the signatory requirements of Section 6.2 below (Signatory Requirements) of this permit, to the division at the following address:

<p><b>Herbicide Application NOI Processing</b> <b>Tennessee Division of Water Pollution Control</b> <b>6th Floor L &amp; C Annex</b> <b>401 Church Street</b> <b>Nashville, TN 37243-1534</b></p>
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#### 2.5. Administrative Procedure for Obtaining Notice of Coverage (NOC)

2.5.1. The division will review each **NOI** for completeness and accuracy. Except as provided in Section 1.5 above (Limitations on Coverage), a complete and accurate **NOI** shall be processed as described in paragraph 2.5.2 below.

2.5.2. The division will transmit to the permittee a NOC under this permit, which shall specify the effective date of coverage. The term of coverage shall not end later than the expiration date of this SOP. If the Division has not been able to transmit an NOC to a permittee within 30 days of receipt of the NOI, discharges are authorized under this permit if the NOI has been assigned a valid NPDES general permit tracking number and the permittee has been informed of this tracking number.

- 2.5.3. If the division determines the submitted [NOI](#) incomplete, or denies an applicant coverage under this general permit, the division shall notify the applicant of this determination in writing.

2.6. Changes Affecting Coverage under this Permit

2.6.1. Planned changes

The permittee shall give notice to the division as soon as possible of planned physical alterations or additions to the activity. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of herbicide being applied.

2.6.2. Change of ownership

If a permittee changes, the permittee shall submit a new NOI in accordance with Part 2 above (Notice of Intent (NOI) Requirements) of this permit at least 30 days prior to the changes if at all practicable.

2.6.3. Change of mailing address

The permittee shall promptly provide to the division written notice of any change of mailing address. In the absence of such notice the original address of the permittee will be assumed to be correct.

**3. TERMS AND CONDITIONS**

3.1. Herbicide Application Terms and Conditions

- 3.1.1. Systemic herbicides shall be limited to those on either the State of Tennessee's list or the [Environmental Protection Agency's list of registered systemic herbicides](#) approved for use in water used for domestic water supply.

- 3.1.2. Application of systemic herbicides and/or copper-based herbicides shall only be by persons [licensed](#) by the [Tennessee Department of Agriculture](#) and must meet all applicable regulations of the [Tennessee Department of Agriculture](#).

- 3.1.3. The applicator must follow all label directions, being mindful of the enforceable state and federal requirements.

- 3.1.4. The applicator must be aware of any label and or water use restrictions in the area of proposed application of systemic herbicides. Water use restrictions include, but are not limited to: water use for domestic and/or industrial water supply, irrigation, livestock and wildlife watering, swimming or fishing. If water use restrictions are applicable, the applicator must contact any potentially affected persons located in vicinity and inform them of the proposed application of systemic herbicides.

- 3.1.5. Application of systemic herbicides and/or copper-based herbicides is limited to an effective plant control zone which shall be within 100 feet of fixed piers, docks, boathouses, public use boat ramps, public and commercial facilities, and all water intakes.
- 3.1.6. Application of systemic herbicides to create navigable boat lanes shall be limited to a single lane not to exceed 50 (fifty) feet in width.
- 3.1.7. Under no circumstances may the area to be treated exceed 10 (ten) acres.
- 3.1.8. At least 7 (seven) days prior to the actual spraying of the herbicide the permittee shall notify the division's local Environmental Assistance Center responsible for the county where the discharge is located (see Section 1.3 above - List of the Division's EACs with Addresses and Phone Numbers).
- 3.1.9. The use of the same systemic aquatic herbicide to a site should be limited to no more than three applications.
- 3.2. Placement of Signs
- 3.2.1. The permittee shall place and maintain at least 2 (two) signs around the affected area before and during application, and at least one week after application of systemic herbicides.

The signs should advise the public that systemic herbicides are being used, the type of herbicide, and any applicable warnings, which are especially important at bathing beaches and other areas of common access. These signs must contain the name of the owner/applicator or person to whom the permit is issued and a contact phone number. These signs should be a minimum of one foot by one foot (1' by 1') with one-half inch (1/2") letters, have a white background with black letters, made of waterproof material, and readable both from the water and from the shore.

The signs are to provide notice to the public as to the nature of the aquatic herbicide application and, that the application is regulated by the Tennessee Department of Agriculture and the Tennessee Department of Environment and Conservation, Division of Water Pollution Control. The following is given as an example of the minimal amount of information that must be included on the sign:

<p><b>AQUATIC SYSTEMIC HERBICIDE APPLICATION AREA</b> <b>(TYPE/NAME OF HERBICIDE)</b> <b>(APPLICATION DATE)</b> <b>(APPLICABLE WARNINGS)</b> <b>(PERMITTEE'S NAME)</b> <b>(PERMITTEE'S PHONE NUMBER)</b> <b>SOP GENERAL PERMIT TRACKING # SOPHA_____</b> <b>TENNESSEE DIVISION OF WATER POLLUTION CONTROL</b> <b>1-888-891-8332 ENVIRONMENTAL ASSISTANCE CENTER – (EAC NAME)</b> <b>TENNESSEE DEPARTMENT OF AGRICULTURE 1-800-628-2631</b></p>
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3.3. Protection of Listed, Threatened, or Endangered Species

3.3.1. This permit does not authorize the application of systemic herbicides and/or copper-based herbicides or application-related activities that are likely to jeopardize the continued existence of any species that are [listed as endangered or threatened](#) under the [Endangered Species Act](#) (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. You are not authorized to apply systemic herbicides and/or copper-based herbicides or perform application-related activities if such activities would cause a prohibited “take” of endangered or threatened species (as defined under [Section 3](#) of the [Endangered Species Act](#) and [50 CFR §17.3](#)), unless such takes are authorized under [Sections 7](#) or [10](#) of the [Endangered Species Act](#). Issuance of a Notice of Coverage (NOC) under this permit will constitute confirmation of the division’s finding that the application of systemic herbicides and/or copper-based herbicides or application-related activities authorized under this permit are not likely to result in the taking of threatened and endangered species.

3.3.2. Should the division later determine that the discharges covered by this permit would result in the taking of threatened or endangered species, or are otherwise not in compliance with the [Endangered Species Act](#), the director, after written notification to the permittee, shall either:

3.3.2.1 Notify the permittee that it is no longer eligible for coverage under this permit and require coverage under an individual permit. The permittee may not continue the application of systemic herbicides or application-related activities until the division issues an individual permit for herbicide application, provided a timely application for an individual permit is made. A timely application is defined as submitting to the division a complete permit application, within 90 days of the notice from the director requiring the application. A permittee may request a later date for the timely submission of an individual permit application for just cause; or

3.3.2.2 Notify the permittee that it must modify its application of systemic herbicides or application-related activities such it will not result in the taking of threatened and endangered species and otherwise be in compliance with the [Endangered Species Act](#). The permittee shall have 7 days after such notice to make and implement such modifications to application of systemic herbicides application-related activities. Should a longer time be required, the permittee shall submit to the division’s local Environmental Assistance Center (see [Section 1.3](#) above - List of the Division’s EACs with Addresses and Phone Numbers) a brief summary of the proposed modifications, including a timetable for implementation.

**4. REPORTING AND RECORDKEEPING**

4.1. Reporting Requirements

4.1.1. No later than 30 days after the completion of the herbicide application project the permittee will provide to the division’s local Environmental Assistance Center responsible for the county where the discharge is located (see [Section 1.3](#) above - List of the Division’s EACs with Addresses and Phone Numbers) and the

division at the address in Section 2.4.1 above a copy of a report containing a description of the just completed activity detailing such information as type and amount of herbicide actually applied, the extent of the area treated, and type, duration of the application and extent of aquatic vegetation treated.

- 4.1.2. Knowingly making any false statement on any report required by this permit may result in the imposition of criminal penalties as provided for in [T.C.A. 69-3-115](#) of the Tennessee Water Quality Control Act.
- 4.1.3. Except for the data determined to be confidential under [T.C.A. 69-3-113](#) of the Tennessee Water Quality Control Act, all reports submitted in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Water Pollution Control.

## **5. TERMINATION OF COVERAGE**

### **5.1. Notice of Termination (NOT) Letter**

- 5.1.1. The permittee shall request termination of coverage under this permit by letter if the application of systemic herbicides to the waters of the state has ceased.
- 5.1.2. The permittee must submit with the letter of termination, the report required in Section 4.1 above (Reporting Requirements). Letter of termination does not relieve the reporting obligation of Section 4.1.1 above. The division retains the right to deny termination of coverage under this general permit upon receipt of the necessary notice and information from the permittee. If discharges have ceased but coverage under the general permit is still in effect because the permittee has not requested termination of permit coverage, the permittee will continue to be responsible for annual permit maintenance fees billed according to [Chapter 1200-4-11 – Environmental Protection Fund Fees](#).
- 5.1.3. The NOT letter and report shall be submitted to the Water Pollution Control section at the address in Section 2.4.1 above and the local Environmental Assistance Center responsible for the county where the discharge is located (see Section 1.3 above - List of the Division's EACs with Addresses and Phone Numbers), for evaluation and approval.

## **6. STANDARD PERMIT CONDITIONS**

### **6.1. Continuation of the Expired General Permit**

This permit expires on Draft 2009. You may maintain coverage under the administratively continued general permit (until a new general permit is issued) by re-submitting the completed [NOI](#) prior to the expiration date of this general permit. You can choose, or may be required, to obtain an individual permit; in that case, you must submit an application at least 180 days prior to expiration of this general permit. Permittees who are eligible and choose to be covered by a new general permit must submit an [NOI](#) by the date specified in that permit.

6.2. Signatory Requirements

All Notices of Intent, reports, certifications, or information submitted to the division, or that this permit requires be maintained by you shall be signed, dated and certified as follows:

6.2.1. All NOIs shall be signed as follows:

6.2.1.1 For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

6.2.1.1.1 A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

6.2.1.1.2 The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated site including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

NOTE: The division does not require specific assignments or delegations of authority to responsible corporate officers. The division will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.

6.2.1.2 For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

6.2.1.3 For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

6.2.1.3.1 The chief executive officer of the agency, or

6.2.1.3.2 A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

6.2.2. All reports required by the permit and other information requested by the division or authorized representative of the division shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- 6.2.2.1 *Signed authorization.* The authorization is made in writing by a person described in paragraph 6.2.1 above and submitted to the division.
- 6.2.2.2 *Authorization with specified responsibility.* The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility for environmental matter for the regulated entity.
- 6.2.3. *Changes to authorization.* If an authorization is no longer accurate because a different operator has the responsibility for application of aquatic herbicides, a new authorization satisfying the requirement of 6.2.2.2 must be submitted to the division prior to or together with any reports, information, or notices of intent to be signed by an authorized representative.
- 6.2.4. *Certification.* Any person (as defined above in 6.2.2.1 and 6.2.2.2) signing documents under Section 6.2 above (Signatory Requirements) shall make the following certification:

*“I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

6.3. **Property Rights**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

6.4. **State/Environmental Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable Tennessee law or regulation under authority preserved by the [Section 510 of the Clean Water Act](#). No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

**7. DEFINITIONS**

*Applicator* is the person who is [licensed](#) by the [Tennessee Department of Agriculture](#) and must meet all applicable [regulations of the Tennessee Department of Agriculture](#) to apply systemic herbicides and/or copper-based aquatic herbicides to the waters of the state.



*Contact Herbicides* kill only the portions of the plant with which they actually come in contact. Contact herbicides are most effective when applied to actively growing plants before flowering. Contact herbicides are not translocated within the plant. They are more effective on annual weeds than perennials and do not provide any residual control; thus, a new flush of weeds may germinate from seed after a herbicide application.

*Copper-based* herbicides are chelated copper compounds that are sometimes used in conjunction with organic chemical mixtures to increase effectiveness of weeds control.

*Critical Habitat* for a threatened or endangered species means-

- (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of the [Endangered Species Act](#) (ESA), on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and
- (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of the ESA, upon a determination by the Secretary that such areas are essential for the conservation of the species.

*Director* means the director of the Tennessee Division of Water Pollution Control, or an authorized representative.

*Discharge*, for the purpose of this general permit, refers to application of systemic herbicides for purpose of controlling aquatic macrophytes to waters of the state that are contained within federal and state managed impoundments and lakes. Discharge, when used without a qualifier, refers to “discharge of a pollutant” as defined at [40 CFR §122.2](#).

*Division* means [the Tennessee Division of Water Pollution Control](#).

*Effective plant control zone* means the area in which an aquatic systemic herbicide will be applied and to which it is intended or reasonably expected to migrate.

*Endangered species* means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

*High Quality Waters* are surface waters of the State of Tennessee that satisfy characteristics of high quality waters as listed in [Rule 1200-4-3-.06](#) of the official compilation - Rules and Regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRW); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are

better than water quality standards. High quality waters are sometimes referred to as Tier II or Tier III (ONRW) waters.

*Impaired Waters* (Water Quality Impaired/Water Quality Limited Waters) means any segment of surface waters that has been identified by the division as failing to support classified uses. The division will notify applicants and permittees if the proposed or existing discharge is into, or is affecting, impaired waters.

*Monitoring* refers to tracking or measuring activities, progress, results, etc.; and can refer to non-analytical monitoring for pollutants by means other than [40 CFR §136](#) (and other than state or federally established protocols in the case of biological monitoring and assessments), such as visually or by qualitative tools that provide comparative values or rough estimates.

*NOI* is an acronym for “[Notice of Intent](#)” to be covered by this permit and is the mechanism used to “register” for coverage under a general permit.

*Systemic Herbicides* are absorbed and are translocated throughout the plant, typically weakening or killing the entire plant. Systemic herbicides may be absorbed through plant top growth (leaves) and/or plant roots and will move into and throughout the plant as long as the plant remains alive; they interrupt critical physiological processes necessary for plant growth and development. Absorption by the plant will depend on such factors as the shape and position of leaves, the hairiness of stems and leaves and amount of protective wax coating on the plant.

*Take* under the [Endangered Species Act](#) (ESA) means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any endangered or treated species, or to attempt to engage in any such conduct prohibited by the ESA.

*Water Quality-Limited Segments*: Those water segments that do not or are not expected to meet applicable water quality standards even after the application of technology-based effluent limitations required by sections 301(b) and 306 of the Act. ([40 CFR §130.2\(j\)](#)) Technology-based controls include, but are not limited to, best practicable control technology currently available (BPT) and secondary treatment.

*Waters of the State* or simply *Waters* is defined in the [Tennessee Water Quality Control Act](#) and means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine to effect a junction with natural surface or underground waters.

“*You*” and “*Your*” as used in this permit is intended to refer to the permittee, the applicator, or the discharger as the context indicates and that party’s responsibilities (e.g., the city, the county, the flood control district, the U.S. Air Force, etc.).

**8. ADDENDUM A – NOTICE OF INTENT (NOI)**

**You may access a copy of the NOI at the division's Web page:**

**<http://www.state.tn.us/environment/wpc/forms/hanoi.doc>**

If you do not have access to the Web,  
please contact the division at 1-888-891-8332 (TDEC)

or

E-mail a request for the NOI at [Jim.McAdoo@state.tn.us](mailto:Jim.McAdoo@state.tn.us)



DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER POLLUTION CONTROL

**NOTICE OF INTENT (NOI)**  
for the  
**APPLICATION OF SYSTEMIC AQUATIC HERBICIDES**

Application Site:	County:
Street Address or Location:	Latitude:
	Longitude:

■ All entries must be in ink. ■ Attach a copy of U.S.G.S. topographical map, a city map, or a county map, identifying nearest town, area of proposed herbicide application, and water intakes within one half mile of location. ■ This NOI must be signed by a responsible corporate officer for a corporation, a general partner for a partnership, the proprietor for a sole proprietorship, or a principal executive officer or ranking elected official for a public agency. ■ If this NOI is submitted in order to update applicant's information (name of permittee or licensed applicator, new address, etc.), provide the existing permit tracking number: SOPSHA \_ \_ \_

Applicant: (the person or legal entity applying for the general permit coverage, which controls area of proposed herbicide application)				
<b>1</b>	Name of the Applicant's Official Contact Person:	Title or Position:		
	Mailing Address:	City:	State:	Zip:
	Phone: ( )	E-mail:		

<b>2</b>	Name of the Licensed Pesticide Applicator:	Pesticide Applicator's Tennessee License Number:		
	Applicator's Mailing Address:	City:	State: TN	Zip:
	Phone: ( )	E-mail:		

Write in the box (to the right) or circle the number (above) to indicate where to send invoices and correspondence:

Describe the proposed activity detailing such information as type and amount of herbicide to be applied, extent of area to be treated (including any drawings, plant control zone footage from piers, docks, boathouses, public use boat ramps, public facilities, and industrial water intakes in feet), proposed frequency of application, estimated application dates, and the type and extent of aquatic vegetation to be treated. Attach additional pages if necessary.

Use check boxes below to indicate if the proposed application of aquatic herbicides is to waters under the jurisdiction of the United States Army Corps of Engineers. If the answer is yes, attach a copy of the authorization from them authorizing the work.

☐ Yes ☐ No ☐ Authorization attached

**CERTIFICATION AND SIGNATURE**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name \_\_\_\_\_ Official Title \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**STATE USE ONLY**

Received Date	Domestic Water Supply Use		Tracking No.	EAC
Impaired Receiving Stream	High Quality Water	T & E Aquatic Fauna	NOC Date	Reviewer

Submit the original completed and signed NOI form to the address below, and keep a copy for your records:

**Herbicide Application NOI Processing**  
**Division of Water Pollution Control**  
**6<sup>th</sup> Floor L&C Annex, 401 Church Street**  
**Nashville, TN 37243-1534**